

COURT FILE NUMBER 2101-00809
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF BANK OF MONTREAL
DEFENDANT METRO PAVING AND ROADBUILDING LTD., METRO PAVING LTD.,
METRO PARS CORPORATION and GRASSLANDS OF BEISEKER
DEVELOPMENT CORPORATION
DOCUMENT **APPROVAL AND VESTING ORDER**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta, T2P 5C5
Telephone: (403) 351-2921
Facsimile: (403) 648-1151
Email: joliver@cassels.com / dmarechal@cassels.com
File No.: 28677-31
Attention: Jeffrey Oliver / Danielle Marechal

DATE ON WHICH ORDER WAS PRONOUNCED: June 30, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice L.B. Ho

UPON THE APPLICATION BDO Canada Limited, in its capacity as receiver and manager (in such capacity, the "**Receiver**") of the assets, undertakings and properties of Metro Paving and Roadbuilding Ltd. ("**Roadbuilding**"), Metro Paving Ltd. ("**Paving**"), Metro Pars Corporation ("**Pars**") and Grasslands of Beiseker Development Corporation ("**Grasslands**" and together with Roadbuilding and Pars, the "**Debtors**") for an Order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Scorpio Masonry (Northern) Inc. (the "**Purchaser**") dated June 21, 2021, and appended to the Third Report of the Receiver dated June 21, 2021 (the "**Report**") in redacted form as Appendix "E" and unredacted form as Appendix "D" to the Confidential Supplement to the Report (the "**Confidential Supplement**"), and vesting in the Purchaser (or

its nominee) the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order dated January 20, 2021 (the "**Receivership Order**"), the Report, the Confidential Supplement, and the Affidavit of Service of Richard Kay sworn June 28, 2021; **AND UPON HEARING** the submissions of counsel for the Receiver and any other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Closing Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets listed in **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;

- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
- (d) those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "D"** (collectively, "**Permitted Encumbrances**"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
 - (i) cancel existing Certificates of Title No. 871 169 162 for those lands and premises municipally described as 7615-40 St NE, Calgary, Alberta, and legally described as:

PLAN CALGARY 2474JK

BLOCK FIVE (5)

LOT NINE (9)

EXCEPTING THEREOUT:

PLAN	NUMBER	AREA
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ROAD	8611132	PORTION
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EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Lands**")

- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee), namely, SCORPIO MASONRY (NORTHERN) INC.;
 - (iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule “D”**, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in **Schedule “D”**; and
 - (iv) discharge and expunge the Encumbrances listed in **Schedule “C”** to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands; and
- (b) the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtors in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
 6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
 7. Upon delivery of the Receiver’s Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity.
 8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in

the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

9. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtors.
10. Upon completion of the Transaction, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by, through or against the Debtors.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).

14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtors were entitled.

MISCELLANEOUS MATTERS

15. Notwithstanding:
- (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtors; and
 - (d) the provisions of any federal or provincial statute

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

16. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
17. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby

respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

18. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
 - (b) Posting a copy of this Order on the Receiver's website at: <https://www.bdo.ca/en-ca/extranets/metrogroupofcompanies/>

and service on any other person is hereby dispensed with.

19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"
FORM OF RECEIVER'S CERTIFICATE

COURT FILE NUMBER	2101-00809	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
PLAINTIFF	BANK OF MONTREAL	
DEFENDANT	METRO PAVING AND ROADBUILDING LTD., METRO PAVING LTD., METRO PARS CORPORATION and GRASSLANDS OF BEISEKER DEVELOPMENT CORPORATION	
DOCUMENT	RECEIVER'S CERTIFICATE	

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Cassels Brock & Blackwell LLP Suite 3810, Bankers Hall West 888 3 rd Street SW Calgary, Alberta, T2P 5C5 Telephone: (403) 351-2921 Facsimile: (403) 648-1151 Email: joliver@cassels.com / dmarechal@cassels.com File No.: 28677-31 Attention: Jeffrey Oliver / Danielle Marechal
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RECITALS

- A. Pursuant to an Order of the Honourable Justice K.M. Eidsvik of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated January 20, 2021, BDO Canada Limited was appointed as the receiver (in such capacity, the "**Receiver**") of the undertakings, property and assets of Metro Paving and Roadbuilding Ltd., Metro Paving Ltd., Metro Pars Corporation and Grasslands of Beiseker Development Corporation (the "**Debtors**").

- B. Pursuant to an Order of the Court dated June 30, 2021, the Court approved the agreement of purchase and sale made as of June 21, 2021 (the "**Sale Agreement**") between the Receiver and Scorpio Masonry (Northern) Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

BDO CANADA LIMITED, in its capacity as Receiver of the undertakings, property and assets of METRO PAVING AND ROADBUILDING LTD., METRO PAVING LTD., METRO PARS CORPORATION and GRASSLANDS OF BEISEKER DEVELOPMENT CORPORATION, and not in its personal capacity.

Per; _____

Name:

Title:

SCHEDULE "B"
PURCHASED ASSETS

All of Metro Paving Ltd.'s right title and interest in and to the following:

LEASE

Lease Agreement dated May 9, 2018 (the "**Lease**"), between the Metro Paving Ltd., as landlord, and Ledcor Construction Limited, as tenant, as it relates to those certain premises relating to that portion of the Lands (as defined below), as further set out in the Lease, to the extent that the Lease has not been terminated on or before the Closing Date (as defined in the Sale Agreement).

CHATTELS

1. ACCENT SWITCHVIEW 1000 8-PORT KVM SWITCH, S/N: N/A
2. TYCO VIDEO RECEIVER WITH (8) CAMERAS, S/N: N/A
3. LOT/ WESTERN DIGITAL AND IOMEGA DRIVES
4. HP PROLIANT DL380 GEN9 SERVER AND ATEN MASTERVIEW MAX, S/N: N/A
5. LOT/ (1) APC UPS SMART-UPS 3000RT AND (1) APC UPS SMART-UPS 3000XL POWER BACKUPS
6. APC SERVER TOWER ENCLOSURE, S/N: N/A
7. SOPHOS XG 210 FIREWALL WITH (3) PROCURVE SWITCHES, S/N: N/A
8. PANASONIC KX-TDA100 PHONE SYSTEM WITH HANDSETS, S/N: N/A

LANDS

See attached certificate of title (the "**Lands**").

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

REGISTRATION

871 169 162

NUMBER DATE (D/M/Y) PARTICULARS

REGULATIONS

851 080 981 21/05/1985 CAVEAT
RE : SEE CAVEAT
CAVEATOR - THE CITY OF CALGARY.
P. O. BOX 2100, POSTAL STATION M, CALGARY
ALBERTA
AGENT - R W VERDEC

191 073 849 16/04/2019 MORTGAGE
MORTGAGEE - BANK OF MONTREAL.
350-7AVE SW 2ND FLR
CALGARY
ALBERTA T2P3N9
ORIGINAL PRINCIPAL AMOUNT: \$3,200,000

191 073 850 16/04/2019 CAVEAT
RE : ASSIGNMENT OF RENTS AND LEASES
CAVEATOR - BANK OF MONTREAL.
350-7AVE SW 2ND FLR
CALGARY
ALBERTA T2P3N9
AGENT - COLIN L YEO

191 091 148 14/05/2019 CAVEAT
RE : LEASE INTEREST
CAVEATOR - LEDCOR CONSTRUCTION LTD.
ATTN:ROD NEYS (EXECUTIVE VICE PRESIDENT, LEGAL)
1067 W CORDOVA ST #1200
VANCOUVER
BRITISH COLUMBIA V6C1C7
AGENT - ADRIAN J SHERMAN

211 058 614 19/03/2021 ORDER
IN FAVOUR OF - BDO CANADA LIMITED.
3810, 888-3 STREET SW
CALGARY
ALBERTA T2P5C5
RECEIVERSHIP ORDER

TOTAL INSTRUMENTS: 007

(CONTINUED)

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 30 DAY OF JUNE,
2021 AT 07:22 A.M.

ORDER NUMBER: 42047100

CUSTOMER FILE NUMBER: 28677-31 kn



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

SCHEDULE "C"
ENCUMBRANCES

Registration Number	Date	Particulars
191 073 849	April 16, 2019	Mortgage Mortgagee – Bank of Montreal
191 073 850	April 16, 2019	Caveat Re: Assignment of Rents and Leases Caveator – Bank of Montreal
211 058 614	March 19, 2021	Order In Favour Of – BDO Canada Limited.

SCHEDULE "D"
PERMITTED ENCUMBRANCES

Registration Number	Date	Particulars
1200KK	February 4, 1969	Utility Right of Way Grantee – Canadian Western Natural Gas Company
771 147 064	October 20, 1977	Zoning Regulations Subject to Calgary International Airport Zoning Regulations
851 080 981	May 21, 1985	Caveat Re: See Caveat Caveator – The City of Calgary
191 091 148	May 14, 2019	Caveat Re: Lease Interest Caveator – Ledcor Construction Ltd.